

# **EXHIBIT A**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

ROGELIO CARLOS, III AND \*  
MYRNA CARLOS \*

VS. \* CIVIL ACTION  
\* NO. 5:16-CV-00251-FB

CARLOS CHAVEZ, VIRGILIO \*  
GONZALEZ, JAMES YBARRA, MARK \*  
DELGADO, CITY OF SAN ANTONIO, \*  
SAN ANTONIO POLICE DEPARTMENT \*  
AND DETECTIVE JOHN DOE \*

ORAL & VIDEO DEPOSITION OF JAMES YBARRA  
JANUARY 31, 2017

ORAL & VIDEO DEPOSITION of JAMES YBARRA, produced as a witness at the instance of the Plaintiffs, and duly sworn, was taken in the above-styled and numbered cause on JANUARY 31, 2017, from 10:08 a.m. to 12:14 p.m., before Darlene Zuehl, Certified Shorthand Reporter in and for the State of Texas, reported by method of machine shorthand, at the Law Offices of Hoblit, Darling, Ralls, Hernandez, & Hudlow, L.L.P., 6243 IH-10 West, Suite 601, San Antonio, Bexar County, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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APPEARANCES

FOR THE PLAINTIFFS:

BY: BRIAN C. STEWARD, PHILIP G. BERNAL,  
KRIS HUFSTETLER

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San Antonio, TX 78232

FOR THE DEFENDANTS - CARLOS CHAVEZ, VIRGILIO GONZALEZ,  
JAMES YBARRA, MARK DELGADO AND DETECTIVE JOHN DOE:

BY: N. MARK RALLS  
HOBLIT, DARLING, RALLS, HERNANDEZ, & HUDLOW, L.L.P.  
6243 IH-10 West, Suite 601  
San Antonio, TX 78201

FOR THE DEFENDANTS - CITY OF SAN ANTONIO AND THE SAN ANTONIO  
POLICE DEPARTMENT:

BY: MARK KOSANOVICH  
FITZPATRICK & KOSANOVICH, P.C.  
P.O. Box 831121  
San Antonio, TX 78283

ALSO PRESENT:

JAMES YBARRA,  
The Witness;

SCOTT HEDEMANN,  
The Videographer;  
DARLENE ZUEHL,  
Certified Shorthand Reporter  
in and for the State of Texas

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THE VIDEOGRAPHER: Today's date is January 31st, 2017. The time is 10:08 a.m. This is the beginning of the deposition of Officer James Ybarra. We're on the record. Will the court reporter please swear in the Witness.

JAMES YBARRA,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. STEWARD:

Q Officer, would you please state your full name?

A James Ybarra.

Q And who is your current employer?

A City of San Antonio.

Q And what is your rank?

A Patrolman.

Q And on May the 20th, 2014, were you a patrolman; was that your rank?

A Yes, still patrolman.

Q Have you ever given a deposition before?

A No.

Q Okay. My name is Brian Steward. I'm one of the attorneys that represents Rogelio Carlos, Jr. I'm going to ask you some questions about May the 20th, 2014. Is it fair to say that on May the 20th, 2014, you never talked to Roger Carlos?

A Your client?

Q Correct.

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1 A Correct.  
 2 Q You never saw him?  
 3 A Correct.  
 4 Q You weren't present when he was apprehended?  
 5 A Correct.  
 6 Q You weren't present when there was an altercation or a  
 7 struggle been various officers and him? .  
 8 A Correct.  
 9 Q We have some COBAN video from your vehicle that shows a  
 10 number of people, and we're going to talk about that at some  
 11 point, but I want to know if you had any discussions with -- I  
 12 think it's Virgil, or any of the other SWAT officers who were  
 13 involved in apprehending Mr. Carlos?  
 14 MR. RALLS: Objection; vague as to time, but you  
 15 can still answer the question.  
 16 THE WITNESS: Can you repeat the question, please?  
 17 Q (BY MR. STEWARD:) Sure. And we'll get to the video,  
 18 but at approximately 2:50 on May the 20th, 2014, there's a group  
 19 meeting, and it's a number of different officers, and I think  
 20 Virgil was one of those officers. So let me ask it this way: Do  
 21 you remember Virgil being at the scene of the suspect's car after  
 22 the apprehension of the suspect?  
 23 A No, I don't remember Car -- Carlos or Virgil being  
 24 there.  
 25 Q Okay. Is your badge number still 855?

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1 A Yes.  
 2 Q Are you still a SWAT?  
 3 A Yes.  
 4 Q What does SWAT stand for?  
 5 A Special Weapons and Tactics.  
 6 Q When did you join SWAT?  
 7 A September 2006.  
 8 Q Why did you join SWAT?  
 9 A That's what I wanted to do. Can you hear me?  
 10 Q Sure. In your experience, does SWAT officers have a  
 11 reputation within the force?  
 12 MR. RALLS: Objection; vague.  
 13 THE WITNESS: Can you repeat the question?  
 14 Q (BY MR. STEWARD:) Sure. With your experience, over  
 15 10 years with SWAT, do you believe that SWAT officers have a  
 16 reputation within the SAPD?  
 17 MR. RALLS: Objection; vague.  
 18 THE WITNESS: Not that I know of.  
 19 Q (BY MR. STEWARD:) Back on May the 20th, 2014, did you  
 20 have a partner?  
 21 A That's -- it probably takes a little bit more than a  
 22 yes or no answer. I did have a partner back then, I believe, but  
 23 I was riding by myself, so he could have been off that day.  
 24 Q During the course of this deposition, probably most of  
 25 my questions won't be yes or no.

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1 A Okay.  
 2 Q Some of them luckily may be. Respond as appropriate.  
 3 A Okay.  
 4 Q If there's something you say that I want to follow up  
 5 on, trust me I'll ask you more questions. If you don't  
 6 understand my question, you can ask me to rephrase it and I'll do  
 7 it. When we start watching the video, take your time. I doubt  
 8 you've watched your COBAN video recently, or have you?  
 9 A I just did.  
 10 Q Okay. This morning?  
 11 A Or parts of it --  
 12 Q Okay.  
 13 A -- not the full video.  
 14 Q Okay. Have you ever seen a transcript for the COBAN  
 15 video where the audio --  
 16 A No.  
 17 Q During the last 10 years, have you ever left your  
 18 assignment with SWAT?  
 19 A No.  
 20 Q You've never worked for internal affairs?  
 21 A No.  
 22 Q And on May the 20th, 2014, you would have been on the  
 23 day shift?  
 24 A Correct.  
 25 Q So you would have gone in around 10:00?

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1 A Correct.  
 2 Q And, in fact, when you first heard about the suspect,  
 3 you were eating lunch?  
 4 A Correct.  
 5 Q Where?  
 6 A Alamo Cafe.  
 7 Q Which one?  
 8 A On I-10 and Wurzbach area.  
 9 Q Who was with you?  
 10 A I can't tell, like, exactly who was there, but I would  
 11 assume -- oh, I can't assume. I would -- I believe it would be  
 12 Carlos, Virgil at the least. I don't want to assume who was  
 13 there. I guess everybody was on shift. We normally eat  
 14 altogether.  
 15 MR. KOSANOVICH: I'm sorry, what did you say?  
 16 THE WITNESS: We normally eat all together.  
 17 Q (BY MR. STEWARD:) So Carlos Chavez?  
 18 A I would think so.  
 19 Q Possibly?  
 20 A Possibly.  
 21 Q And Virgil Gonzalez, possibly?  
 22 A Possibly.  
 23 Q And they're both SWAT members as well?  
 24 A Correct.  
 25 Q And they were in the same vehicle; correct?

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1 A They ride together, correct.  
 2 Q Do you know who drives?  
 3 A No.  
 4 Q Have you ever seen the COBAN footage from their  
 5 vehicle?  
 6 A No.  
 7 Q Are there SWAT tryouts?  
 8 A Yes.  
 9 Q What happens in a SWAT tryout? What did you have to  
 10 do?  
 11 A You test the applicant's firearm ability, their  
 12 physical ability, and then there's a background check, as far  
 13 as -- we find out from their supervisor or coworkers, you know,  
 14 their attendance at work and stuff like that. There's an  
 15 interview process, and then there's a selection by the members.  
 16 Q Have you ever been a part of the member selection  
 17 group?  
 18 A Everybody is a part of the member selection.  
 19 Q So in order for someone, while you have been on SWAT,  
 20 to become a part of SWAT, you had to be approved by the other  
 21 officers who were then members?  
 22 A Correct.  
 23 Q So there was a shooting corp, is that right, a shooting  
 24 part to this test?  
 25 A Correct, uh-huh. They're shooting standards, correct.

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1 Q So you had to score over?  
 2 A A 90.  
 3 Q With what?  
 4 A Pistol.  
 5 Q And there's a PT test?  
 6 A Correct.  
 7 Q You had to score over 200?  
 8 A Correct.  
 9 Q And that combines sit-ups, pull-ups, push-ups, and a  
 10 run?  
 11 A I don't believe there's pull-ups. I believe it's body  
 12 fat. There could be pull-ups in there now. I don't remember.  
 13 Q Certainly there was a timed run?  
 14 A Timed run, uh-huh.  
 15 Q 1.5 miles?  
 16 A Yes.  
 17 Q And you had to do it in less than?  
 18 A It's -- it's not less than. There's not a maximum  
 19 time, but there's a -- there's a point scale. To max out you  
 20 have to reach a certain point and then the next level a certain  
 21 point, but there's no end time. You could walk it. You just  
 22 might not get selected.  
 23 Q When you went through the tryout, was there also an  
 24 obstacle course?  
 25 A Correct.

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1 Q And was there also, in that obstacle course, scenarios  
 2 that you had to complete?  
 3 A Not when I went through it.  
 4 Q Was there a target recognition test at the SWAT tryout?  
 5 A You're talking about when I --  
 6 Q Right.  
 7 A No.  
 8 Q Do you know if there's one now?  
 9 A There are police scenarios involved, patrol scenarios  
 10 involved now.  
 11 Q And when did that come into being?  
 12 A Maybe three or four years ago.  
 13 Q Do you know why?  
 14 A We had a tryout coming up where -- a lot of the  
 15 applicants that come to the tryouts have gone through a basic  
 16 SWAT school before that we put on. So we kind of get to see who  
 17 these people are, like, for 60 hours or six days straight, kind  
 18 of -- kind of how they interact with people, their teammates and  
 19 stuff like that. And we had a tryout -- an opening on SWAT where  
 20 we haven't had a SWAT school in a year or so, so we didn't know a  
 21 lot of the applicants and their backgrounds, what kind of skills  
 22 they possess. So it was suggested that we have patrol-based  
 23 scenarios added so we could kind of see how they -- what kind of  
 24 police officers they are, besides just running abilities and  
 25 shooting abilities and so we added that.

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1 Q Who suggested that?  
 2 A I couldn't tell you exactly who. It would have come  
 3 from the officers on the team.  
 4 Q Within SWAT is there any specialized training that you  
 5 receive?  
 6 A Yes.  
 7 Q And back when you started, can you tell me what that  
 8 training would have been?  
 9 A There's a number of stuff that we go through to learn  
 10 all the new weapons that we're exposed to. The chemical agents  
 11 that we're exposed to and stuff like that.  
 12 Q Is there retraining?  
 13 A There's team training once a week, and that covers vast  
 14 things of what we're expected to perform.  
 15 Q Is there yearly tactical training?  
 16 A Yes.  
 17 Q Where?  
 18 A That's put on throughout the year, different training  
 19 sites, put on by the members of the team.  
 20 Q So the tactical training is actually provided by SWAT  
 21 officers?  
 22 A That's correct.  
 23 Q To SWAT officers?  
 24 A Correct.  
 25 Q Back in May of 2014, who was your supervisor?

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1 A Mark Delgado.  
 2 Q Is Detective Delgado still your supervisor?  
 3 MR. RALLS: Objection --  
 4 THE WITNESS: He's my sergeant, but yes, he is  
 5 still my supervisor.  
 6 Q (BY MR. STEWARD:) Is that officer the officer who  
 7 would evaluate you yearly?  
 8 A Correct.  
 9 Q Do you recall Chavez or Gonzalez going through the SWAT  
 10 selection or the SWAT tryout while you were an officer?  
 11 A I've been on longer, yes. Do I remember their  
 12 particular tryout, I couldn't tell you.  
 13 Q Okay. Where did you go to high school?  
 14 A I'm sorry?  
 15 Q Where did you go to high school?  
 16 A Madison High School.  
 17 Q When did you get out?  
 18 A 1991.  
 19 Q When did you join the Marines?  
 20 A 1991.  
 21 Q How long did you -- how long were you active duty?  
 22 A I wasn't.  
 23 Q What happened?  
 24 A I was Reserve the whole time.  
 25 Q How long were you in the Reserves?

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1 A Eight years.  
 2 Q Why didn't you go into active duty?  
 3 A Because I wanted to go to college.  
 4 Q Was it your understanding that you couldn't go to  
 5 college and go to the Marines?  
 6 A My understanding was that it would have been easier to  
 7 do it Reserve and -- versus while active duty, me getting  
 8 deployed to different places.  
 9 Q So as a Reserve officer with the Marines fair to say  
 10 you were never deployed?  
 11 A No, it was peacetime.  
 12 Q You went to SAC?  
 13 A Yes.  
 14 Q Did you get a degree?  
 15 A Yes.  
 16 Q When?  
 17 A I don't know.  
 18 Q In what?  
 19 A Criminal justice.  
 20 Q When you separated from the Marine Reserves, you were a  
 21 private?  
 22 A No. Staff sergeant, E-6.  
 23 Q Okay. What was your MOS?  
 24 A Food services.  
 25 Q Honorable discharge?

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1 A Yes.  
 2 Q And do you recall when you separated? Was it 2000?  
 3 A No, it was about the same time I joined SAPD. I  
 4 would -- '99.  
 5 Q Did the Marines pay for your education at SAC?  
 6 A Part of it. I had the GI Bill.  
 7 Q You first joined the Bexar County Sheriff's Department;  
 8 is that right?  
 9 A Correct.  
 10 Q And from what we've seen, what has been produced to us,  
 11 it looks like you started in August of 1996. Does that seem  
 12 about right?  
 13 A About right.  
 14 Q Did you -- or were you a jailer?  
 15 A Yes.  
 16 Q For how long?  
 17 A My -- the duration of it, about four years, I would  
 18 think.  
 19 Q Did you receive any training regarding the use of force  
 20 from Bexar County Sheriff's Office?  
 21 A Yes.  
 22 Q And would all of that training have been focused on  
 23 interaction between the jailers and the inmates?  
 24 A Can you repeat that?  
 25 Q Sure. Would that training have been focused on the

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1 interaction between jailers like you and inmates at Bexar County  
 2 Sheriff's Office?  
 3 A Yeah, I would believe so.  
 4 Q Did you ever receive any training from Bexar County --  
 5 Bexar County Sheriff's Office regarding civilians, non-inmates,  
 6 and the use of force?  
 7 A I can't recall, but I would assume so.  
 8 Q What was the training that you did receive regarding  
 9 the use of force? What was it called?  
 10 A Use of force training.  
 11 Q Okay. How was it provided to you?  
 12 A Back then, in the sheriff's academy?  
 13 Q Right.  
 14 A Just probably classroom instructions and maybe some  
 15 hands-on.  
 16 Q What did you generally learn?  
 17 MR. RALLS: Objection; vague.  
 18 THE WITNESS: The proper ways to apply force, I  
 19 would assume.  
 20 Q (BY MR. STEWARD:) In SAPD there are various rules in  
 21 the general manual that cover the use of force. You're aware of  
 22 that?  
 23 A Yes.  
 24 Q Back at the Bexar County Sheriff's Department, were  
 25 there written rules which governed the use of force?



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1 A Yes.  
 2 Q When you started -- strike that.  
 3 There's a point where you leave the detention  
 4 center and actually become a peace officer with Bexar County; is  
 5 that right?  
 6 A No, it was --  
 7 Q The opposite?  
 8 A It was hand in hand. No.  
 9 Q Oh, at the same time?  
 10 A Same time.  
 11 Q Okay.  
 12 A When you're working the jail, you're -- most people's  
 13 goal is to get on patrol, and to do that, you have to be a  
 14 licensed peace officer.  
 15 Q And when did you become a licensed peace officer,  
 16 approximately?  
 17 A I'm not too sure. It was through SAC. Before I left  
 18 Bexar County.  
 19 Q From what we've seen it looks like you graduated with  
 20 your criminal justice degree in May of 1997. Okay. If that's an  
 21 accurate date --  
 22 A I don't think that's an accurate date.  
 23 Q Okay.  
 24 A Are you talking about my degree or my peace officer's  
 25 license?

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1 Q No, your degree.  
 2 A No. I believe I was on SAPD when I went back and got  
 3 my associate's degree.  
 4 Q Okay. Well, let me walk through it, then. There's a  
 5 point where you are -- I think you just testified you're on --  
 6 you're a jailer as well as on patrol --  
 7 A No.  
 8 Q -- at Bexar County?  
 9 A No, not on patrol. It's getting your peace officer's  
 10 license, but I'm still assigned to the jail. So instead of a  
 11 jailer, I'm a deputy.  
 12 Q Okay.  
 13 A And that opens you up to more jobs you can apply for as  
 14 far as to transfer out of the jail.  
 15 Q Why did you leave Bexar County to go to Travis County?  
 16 A The money.  
 17 Q When you started with Travis County in May of 1999,  
 18 were you a deputy or a jailer?  
 19 A I believe they hired me as both. I think I carried my  
 20 commission over there. I was only there a short period, so I  
 21 could be wrong. I could have just been a jailer.  
 22 Q Looks like you were only there for five months.  
 23 A Correct.  
 24 Q Then you returned to San Antonio?  
 25 A Correct.

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1 Q But you didn't start with SAPD for almost eight months;  
 2 is that right?  
 3 A That's probably the time I was in the academy. Maybe  
 4 they considered me a civilian then.  
 5 Q How long is the academy, how many weeks?  
 6 A I'm not sure.  
 7 Q The records indicate that you -- your service start  
 8 date was March 31st, 2000.  
 9 A That's the day we graduated the academy.  
 10 Q So you've been with the force almost 17 years?  
 11 A Almost 17.  
 12 Q And Philippus was the chief when you started?  
 13 A Correct.  
 14 Q Going back to SWAT, and specifically going to May of --  
 15 or May the 20th, 2014, what was your assignment that day?  
 16 A I don't believe we had a particular assignment besides  
 17 being available, like we always are, for follow-up units or  
 18 critical incidents and stuff like that. We might have had a  
 19 directed patrol assignment, but I'm not sure.  
 20 Q And do you remember if you were at Alamo Cafe when you  
 21 received notification about the suspect?  
 22 A Yes.  
 23 Q And how did you receive that notification?  
 24 A I believe it was a phone call.  
 25 Q Through a cell phone?

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1 A Correct.  
 2 Q From whom?  
 3 A Gabe DeLeon.  
 4 Q Who is that?  
 5 A He's a detective with SAPD.  
 6 Q Is he within SWAT or not?  
 7 A No.  
 8 Q Why would he call you, if you know?  
 9 A To help him out.  
 10 Q And what were you told?  
 11 A Got the highlights as far as his unit was following a  
 12 wanted person, and he asked for our help because the suspect had  
 13 a history of violence.  
 14 Q Did he tell you anything else?  
 15 A He may have. I don't remember exactly what it was.  
 16 That's just the gist of what it was, that they needed help and  
 17 where they were at.  
 18 Q Where were they?  
 19 A At the time of the call, they were coming on 410 like  
 20 from Valley Hi area.  
 21 Q Is it your understanding that he was in pursuit at that  
 22 point when he called you?  
 23 A No, not in pursuit. His unit works covertly, so  
 24 they're in unmarked vehicles.  
 25 Q And was -- if you know, was there a specific officer

Page 21

1 who was following the suspect?  
 2 A I don't know who was doing it. They normally do it  
 3 with multiple officers.  
 4 Q Have you ever seen any COBAN footage from the other  
 5 officers who may have been following the suspect before you  
 6 became involved?  
 7 A No.  
 8 Q When you assisted Del -- is it detective?  
 9 A Uh-huh.  
 10 Q When you assisted Detective DeLeon, did you provide the  
 11 other SWAT members with that information?  
 12 A Correct.  
 13 Q Who?  
 14 A The officers on duty eating with me.  
 15 Q Anyone else?  
 16 A Possibly my supervisor would have been informed too.  
 17 Q So the officers that were eating with you, you just  
 18 would have told them?  
 19 A Uh-huh, correct.  
 20 Q The officer -- your supervisor, you would have had to  
 21 communicate with him?  
 22 A Correct.  
 23 Q How?  
 24 A Either through a phone or through the radio  
 25 transmission.

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1 Q Is there any reason why Detective DeLeon didn't use a  
 2 radio transmission to contact you --  
 3 MR. KOSANOVICH: Objection; form, calls for  
 4 speculation.  
 5 Q (BY MR. STEWARD:) -- if you know.  
 6 MR. RALLS: Same objection.  
 7 THE WITNESS: Can you repeat the question?  
 8 Q (BY MR. STEWARD:) Sure. Is there any reason why  
 9 Detective DeLeon didn't contact you using a radio transmission as  
 10 opposed to a cell phone, which he used?  
 11 MR. KOSANOVICH: Objection; form.  
 12 MR. RALLS: Calls for speculation.  
 13 THE WITNESS: Every time they object, I have a  
 14 hard time remembering. You asked me why he didn't use the radio,  
 15 I don't know.  
 16 Q (BY MR. STEWARD:) If you know, right.  
 17 A I don't know.  
 18 Q Notice that during the course of this there will be  
 19 objections.  
 20 A That's fine. It's just that I want to make sure I'm  
 21 answering your question.  
 22 Q Right. And unless one of these fine lawyers tells you  
 23 not to answer the question, try to provide me with an answer.  
 24 A Will do.  
 25 Q Now, when they distract you and I have to repeat,

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1 that's fine. I'll do it as best I can, but invariably I change  
 2 the question a little bit. So listen to the second question  
 3 that's asked because it may be a little bit different than the  
 4 first one. Okay?  
 5 A All right.  
 6 Q All right. How long do you think it took before you  
 7 first saw the suspect's vehicle?  
 8 A After the phone call?  
 9 Q Right.  
 10 A 10 minutes, 15 minutes. I'm not too sure.  
 11 Q So he had been -- well, strike that.  
 12 Who was the suspect?  
 13 A I would have to look at my report to get his name  
 14 correct.  
 15 Q Did Detective DeLeon give you the suspect's name?  
 16 A I don't remember.  
 17 Q Do you know if Detective DeLeon gave you a description  
 18 of the suspect?  
 19 A I don't remember.  
 20 Q Did he provide you with a description of the vehicle?  
 21 A I don't remember.  
 22 Q And I think you said a little bit earlier you would  
 23 have to look at your offense report?  
 24 A Correct. For the suspect's name?  
 25 Q Right.

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1 A Correct.  
 2 Q Did you review your offense report before your  
 3 deposition today?  
 4 A Correct.  
 5 Q What else did you review?  
 6 A The interrogatory questions, I believe they're called.  
 7 Q Right. Anything else?  
 8 A We saw the COBAN video.  
 9 Q Anything else?  
 10 A No.  
 11 Q Did you have to prepare a use-of-force report regarding  
 12 the apprehension of the suspect?  
 13 A No.  
 14 Q After the apprehension of the suspect, did you ever  
 15 speak with Detective DeLeon about your pursuit of the suspect?  
 16 A No. Well, can you repeat that again?  
 17 Q Want me to -- sure, sure, sure. On the date of the  
 18 apprehension of the suspect, did Detective DeLeon come to the  
 19 scene?  
 20 A I don't believe so.  
 21 Q On that date, again, May the 20th, 2014, did you  
 22 contact Detective DeLeon and tell him, we have the suspect in  
 23 custody?  
 24 A I don't believe I would have reached out to him  
 25 specifically. That was probably broadcasted over the radio.

Page 25

1 Q Did he ever, Detective DeLeon, contact you via phone  
2 and ask you what had happened?  
3 A I don't believe so.  
4 Q And the cell phone you had would have been issued to  
5 you by SAPD?  
6 A Correct.  
7 Q Now, going back to communications, you had, in your  
8 patrol car, your radio; correct?  
9 A Uh-huh.  
10 Q A walkie-talkie?  
11 A Well, that's -- my police radio is issued to me. It's  
12 not in the car.  
13 Q Okay.  
14 A I had it on me.  
15 Q Where?  
16 A On my police belt.  
17 Q Can you describe it?  
18 A A handheld Motorola radio.  
19 Q Okay. Any other forms of communication that would have  
20 been on your body?  
21 A Cell phone.  
22 Q Okay. Anything else?  
23 A Forms of communication, not that I know of.  
24 Q Where would -- for the radio, where would the mike have  
25 been?

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1 A It's in the radio, pick it up, handheld.  
2 Q So you wouldn't have a mike or --  
3 A Lapel mike.  
4 Q -- a lapel mike?  
5 A No.  
6 Q Right. So if you needed to speak through the radio you  
7 would have to actually pull it out and innervate it, or turn it  
8 on?  
9 A Correct.  
10 Q How would you, with the radio, mute the radio?  
11 A I don't believe you can. I mean, if you're not pushing  
12 the button to speak --  
13 Q It's not going to communicate.  
14 A -- you're not going to communicate to anybody. You'll  
15 just receive transmission.  
16 Q Before you received the call on the cell phone, would  
17 your radio have been dialed to a specific station or channel?  
18 A Correct.  
19 Q What?  
20 A The SWAT channel.  
21 Q Which is?  
22 A Three golf.  
23 Q Who has access to that channel?  
24 A Anybody with a police radio.  
25 Q If you wanted to contact other SWAT officers or

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1 patrolmen, was three golf the preferred channel?  
2 A If they're going to get ahold of us over the police  
3 radio, it would be on three golf.  
4 Q And how would you actually turn your radio on to three  
5 golf; what would you physically have to do?  
6 A There's buttons to change the prefix number from one to  
7 three, and then there's a knob to change it from alpha to golf.  
8 Q Do you have any recollection as to when you first saw  
9 or first contacted the suspect?  
10 A Yes.  
11 Q When, approximately?  
12 A In his vehicle, drove past me.  
13 Q So were you actually driving on what roadway when that  
14 happened?  
15 A I was stopped at the access road of 410 and 151.  
16 Q And what happened when that vehicle rolled past you?  
17 A He had the green light, so he went -- I would call  
18 it -- northbound on 151 access road, and I was stationary facing  
19 west on the access road when the vehicle drove past.  
20 Q Did you contact any other officers to let them know  
21 that you ID'd the suspect?  
22 A I'm sure I did.  
23 Q How?  
24 A Would have been over the police radio.  
25 Q Which channel?

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1 A There's two different channels that normally get worked  
2 off of because we're on SWAT. One partner is on three golf,  
3 one's on three lima, or actually, the working channel for that  
4 day would have been three lima since we were helping out Gabe's  
5 unit. I was by myself, so I was going back and forth, so I don't  
6 know. It would have been one or the other.  
7 Q Before -- strike that.  
8 Between the time that you received the phone call  
9 from Detective DeLeon and actually seeing the suspect, do you  
10 recall any information from other officers coming in about the  
11 suspect?  
12 A Information that I received from other officers would  
13 probably have been the direction of flight of the vehicle, as far  
14 as where they're following him at, so we could meet up with them.  
15 Q Did you notice any other police officers when that  
16 vehicle -- when the suspect drove past you?  
17 A No.  
18 Q Are you aware of any other vehicles or police officers  
19 pursuing the suspect at the same time you did?  
20 A No.  
21 Q The offense report that you reviewed before the  
22 deposition, that would have been just for the apprehension of the  
23 suspect; correct?  
24 A Correct. It's for the suspect, correct.  
25 Q Were there any eyewitnesses to the apprehension of that



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1 suspect?  
 2 MR. KOSANOVICH: Objection; form, calls for  
 3 speculation.  
 4 THE WITNESS: Besides policemen?  
 5 Q (BY MR. STEWARD:) Right.  
 6 A No.  
 7 Q Who were the policemen involved in the apprehension of  
 8 the suspect?  
 9 A I don't want to give the incorrect names, so I'm not  
 10 sure.  
 11 Q Well, let me ask --  
 12 A I believe Raul Romero was one of them, because he was  
 13 on my report as the transporting officer.  
 14 Q What does the transporting officer do?  
 15 A He took the suspect -- you transport the suspect from  
 16 location to where we needed him to go.  
 17 Q Baptist Hospital?  
 18 A It was a hospital, I'm not sure if it was Baptist, and  
 19 then to the jail.  
 20 Q Would the transporting officer have stayed with the  
 21 suspect at whatever hospital it may have been and then  
 22 transported him to the jail, if you know?  
 23 A For the most part, I would believe, unless they went  
 24 past their duty hours and then he would have been relieved.  
 25 Q Any other officers that you can identify that were

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1 involved with the apprehension of the suspect?  
 2 A No.  
 3 Q And this information about who the other officers may  
 4 have been, whether they were eyewitnesses, that would all be  
 5 contained in the offense report; correct?  
 6 A In my office report?  
 7 Q Yes.  
 8 A No.  
 9 Q Where would it be contained in?  
 10 A In their reports.  
 11 Q But if other officers were involved in the apprehension  
 12 of the suspect, and you did an offense report, you would list  
 13 those officers, would you not?  
 14 A Not necessarily. Sometimes you can just refer to their  
 15 reports. They would have wrote a report also.  
 16 MR. STEWARD: Let's go off the record for a sec.  
 17 THE VIDEOGRAPHER: Time is 10:41 a.m. We're off  
 18 the record.  
 19 (Recess taken)  
 20 (Exhibit 34 marked)  
 21 THE VIDEOGRAPHER: Time is 10:51 a.m. We're back  
 22 on the record.  
 23 Q (BY MR. STEWARD:) Officer, why -- why were you -- or  
 24 why were you given a cell phone?  
 25 A We're on call.

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1 Q So they could reach you at any time?  
 2 A Correct.  
 3 Q Whereas, with the radio they might not be able to reach  
 4 you because you might not have it with you?  
 5 A The cell phone is for -- for 24 hours a day. My radio  
 6 might not be on 24 hours a day.  
 7 Q Okay. We have placed in front of you a document, which  
 8 I believe is your police report; is that correct?  
 9 A A copy of my police report, yes.  
 10 Q And we --  
 11 MR. RALLS: And take your time -- take your time  
 12 and look at it just to verify that we didn't make a mistake. And  
 13 by -- by the way, for the record, yeah, it looks like it was  
 14 produced under RFP Carlos -- Response RFP 03275 to --  
 15 MR. STEWARD: 3279?  
 16 MR. RALLS: Yeah.  
 17 MR. STEWARD: Okay.  
 18 Q (BY MR. STEWARD:) Does that look like it's your  
 19 report?  
 20 A Yes.  
 21 Q It's four pages?  
 22 A Yes.  
 23 Q And it looks like from Page 1 these events started at  
 24 1420 hours?  
 25 A Uh-huh.

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1 Q Is that right?  
 2 A Yes.  
 3 Q And you reported the events at 1600?  
 4 A Correct.  
 5 Q So it started about 2:20, and you reported it -- all of  
 6 this at four o'clock?  
 7 A Correct.  
 8 Q Okay.  
 9 A When it says reported, that's probably the time I wrote  
 10 my report.  
 11 Q And when you draft your report, physically what do you  
 12 have to do?  
 13 A Nowadays, you log onto a computer and pull up the --  
 14 the form on the computer and fill it out.  
 15 Q Is that what you did with this?  
 16 A Yes.  
 17 Q Where was the computer?  
 18 A They -- they have them in the patrol car. They have  
 19 them at the jail. They have them at the substations. I'm not  
 20 sure where this one was drafted at.  
 21 Q And in that system there is a form that you actually go  
 22 through and fill out?  
 23 A It looks just like this.  
 24 Q Okay. Did you have any assistance filling out this  
 25 form?

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1 A No.  
 2 Q So under "notified detective" on the first page there's  
 3 a check, and it has "Detective G. Valedez." Do you see that?  
 4 A Yes.  
 5 Q Who is that?  
 6 A That was the detective in charge of this case.  
 7 Q That was not the person who called you on the cell  
 8 phone?  
 9 A That was not the person who called me.  
 10 Q How did you get that name?  
 11 A He was at the scene.  
 12 Q And below that it has "notified supervisor," and it has  
 13 your supervisor's name; is that right?  
 14 A Yes.  
 15 Q Then below that it has "primary offense," and what does  
 16 it say or what's that code for?  
 17 A Possession with intent to deliver controlled substance,  
 18 penalty group one, 4 grams to 200 grams.  
 19 Q Of what? Do you know what the substance was?  
 20 A I believe it tested positive out in the field for  
 21 methamphetamine.  
 22 Q And was methamphetamine found both inside the vehicle  
 23 and in the area around the vehicle?  
 24 MR. RALLS: Objection; vague.  
 25 THE WITNESS: Inside the vehicle and in the

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1 parking lot, correct.  
 2 Q (BY MR. STEWARD:) There was also a shotgun found; is  
 3 that right?  
 4 A Yes.  
 5 Q Where was that found?  
 6 A In the suspect's vehicle.  
 7 Q Was it found by you?  
 8 A Yes.  
 9 Q On the second page, under "details," there's a  
 10 reference to hair color. Do you see that?  
 11 A Yes.  
 12 Q And someone wrote "black."  
 13 A Yes.  
 14 Q Is that you?  
 15 A Yes.  
 16 Q Eye color brown?  
 17 A Yes.  
 18 Q Medium build?  
 19 A Yes.  
 20 Q Facial hair, it indicated that he had a goatee?  
 21 A Yes.  
 22 Q You've got a reference here to his voice?  
 23 A Yes.  
 24 Q But there's no reference here to tattoos?  
 25 A Yes.

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1 Q Do -- do you believe that his tattoos were memorable?  
 2 A I don't remember this guy's tattoos.  
 3 Q Were they distinctive?  
 4 A I don't know.  
 5 Q Were the tattoos used as a part of your attempt to  
 6 identify this person?  
 7 MR. RALLS: Objection; vague as to time.  
 8 THE WITNESS: No.  
 9 Q (BY MR. STEWARD:) Did the telephone call or the cell  
 10 call inform you of the warrant?  
 11 A Yes.  
 12 Q And what was the warrant for?  
 13 A Family violence, felony offense, I believe.  
 14 Q When?  
 15 A When was the family violence?  
 16 Q Right.  
 17 A I don't know.  
 18 Q Did that matter?  
 19 A The time of the offense, no.  
 20 Q Below that, under "arrest," it has 1425 as the arrest  
 21 date and time; is that right?  
 22 A I don't see where you're look -- okay. I see.  
 23 Correct.  
 24 Q Is it your understanding that the suspect was under  
 25 arrest at that time?

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1 A That's probably a close estimate.  
 2 Q Once the suspect was under arrest, who would you have  
 3 notified?  
 4 A The requirements for notification, I don't think  
 5 there -- there is any, but it would have just been over the  
 6 police radio.  
 7 Q Which channel? Lima?  
 8 A Probably lima, but could have been golf.  
 9 Q You were aware, at the time of his arrest, that there  
 10 were other SWAT officers responding?  
 11 A Can you repeat that?  
 12 Q You were aware, at the time of the arrest, if it's at  
 13 around 1425 on May the 20th, 2014, that there were other officers  
 14 that were responding?  
 15 A Yes.  
 16 Q Other officers, including the people you had lunch  
 17 with?  
 18 A Yes.  
 19 Q So do you recall specifically going to three golf and  
 20 telling other SWAT members that the suspect was under arrest?  
 21 MR. RALLS: Objection; mischaracterizes testimony.  
 22 THE WITNESS: I was the only SWAT officer working  
 23 by themselves, so every other person would have been able --  
 24 every other team would have been able to monitor three lima and  
 25 three golf at the same time, so if it was broadcasted over the

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1 radio by me, whichever channel, they should have been notified.

2 Q (BY MR. STEWARD:) Have you ever had a conversation  
3 with Carlos Chavez or Virgilio Gonzalez about when they first  
4 became aware that this suspect had been placed under arrest?

5 A Repeat, please.

6 Q Sure. Have you had a conversation since this took  
7 place with Carlos Chavez or Virgilio Gonzalez about when they  
8 first learned that the suspect had been placed under arrest by  
9 you?

10 MR. RALLS: Let me just make an objection and  
11 instruct you not to answer any con -- about any conversations  
12 that you had with them after the lawsuit was filed, after you  
13 were served with the lawsuit, so -- but prior to that is fine.

14 THE WITNESS: Specific conversations, I can't  
15 recall.

16 Q (BY MR. STEWARD:) You are aware that they pursued and  
17 apprehended another individual; correct?

18 A Correct.

19 Q And at the time you apprehended the suspect, you could  
20 not see them, could you?

21 A Correct.

22 Q You could not hear them?

23 A Correct.

24 Q You did not know where they were?

25 A Correct.

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1 Q They did not come to assist you in apprehending this  
2 suspect, did you -- did they?

3 A Correct.

4 Q At any point after he was apprehended, did they come  
5 and assist you?

6 A I don't believe so.

7 Q Looking at your four-page report, can you now identify  
8 who the suspect was?

9 A Jose Gonzalez -- Josue Gonzalez.

10 Q And other than the things that you've written in the  
11 details, can you provide a description of him?

12 A No.

13 Q Do you know if he was tried?

14 A No.

15 Q Did you participate in the trial?

16 A No.

17 Q Under a statement of probable cause there -- there's  
18 information that's typed. Did you type that information?

19 A Yes.

20 Q How were you able under arrestee drug use -- strike  
21 that.

22 Was that historical arrestee drug use?

23 A It's related because the methamphetamines were found in  
24 the vehicle and in the parking lot.

25 Q Were you able -- at the bottom of Page 2, were you able

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1 to take the VIN from that Camry and run it?

2 A I would have run the license plate versus the VIN.

3 Q How about a serial number? Did you run any serial  
4 numbers from either the shotgun or potentially the vehicle at the  
5 scene?

6 A That would have been done -- whether it was by me or  
7 somebody else, it would have been done.

8 Q Do you know if that was the serial number for the  
9 shotgun?

10 A I would assume it was, yes.

11 Q So on the third page you identify the things that were  
12 taken from that vehicle; is that correct?

13 A Where are you seeing that at? For recovery --

14 Q Down --

15 A -- property.

16 Q Correct.

17 A Okay.

18 Q So there's one firearm, which was a shotgun. Do you  
19 see that?

20 A Yes.

21 Q And do you know what kind of a shotgun it was, and by  
22 that, I mean gauge?

23 A No.

24 Q So going to the -- the last page. You were asked by  
25 Detective DeLeon to switch your radio to three lima?

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1 A Uh-huh.

2 Q Would that have been at 1420 or before that?

3 A No, it would have been before that.

4 Q Do you know what time?

5 A No. When the phone call happened, around 1400, I would  
6 believe.

7 Q Okay. You were told the other detectives were  
8 following the suspect in a gold Camry and that the suspect was  
9 wanted on a felony warrant; is that right?

10 A Correct.

11 Q Suspect had a history of violence; correct?

12 A Correct.

13 Q You then switched to three lima, and you were able to  
14 catch up to the suspect at Highway 151 and Loop 410?

15 A Correct.

16 Q Now, did you catch up to him or did he pass you?

17 A It's a play on words, but we met there at --

18 Q Okay. You switched your radio back to three golf to  
19 double-check that other SWAT units were nearby?

20 A Uh-huh.

21 Q Well, you knew that at least one vehicle containing two  
22 SWAT officers were also assisting at that point?

23 MR. KOSANOVICH: Object to the form of the  
24 question.

25 MR. RALLS: Objection; assuming facts not in

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1 evidence at this point.

2 Q (BY MR. STEWARD:) Did you know, after the phone call  
3 at Alamo Cafe, that Chavez and Gonzalez were going to assist you?

4 A Yes, I knew that.

5 Q Okay. So when you switched your radio back to three  
6 golf to double-check that the other SWAT units were nearby, did  
7 you have an understanding as to where Gonzalez and Chavez were  
8 going?

9 A No. I knew the people that were eating with me were  
10 going to try to locate the suspect also, but I was by myself and  
11 I was the first one to pay. So I left before everybody else.  
12 Now, they would have left after they paid their bill. So that's  
13 why I wanted to see where they were at.

14 Q Were they going to go to generally the same place that  
15 you were going to?

16 A Uh-huh.

17 Q Which was where?

18 A They were -- they would have listened to the trans --  
19 the broadcast over the radio to find out where the suspect was  
20 at.

21 Q Who was going to participate in setting out the  
22 quadrant?

23 A The officers who were showing up to help me out.

24 Q How many officers are necessary to create a quadrant?

25 A Are necessary?

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1 Q Right.

2 A I don't know. More than one would probably be the  
3 minimum.

4 Q Did you have an understanding as to how many SWAT  
5 officers were responding?

6 A Did I have an understanding?

7 Q Sure.

8 A More than one group.

9 Q Well, you were sitting with two of them?

10 A Yeah, that's one unit.

11 Q Okay. Did anyone else contact you during your pursuit  
12 of the suspect and tell you, hey, we're in pursuit also?

13 A I would have to listen or find the transcript, but I  
14 don't know if anybody acknowledged that they were behind me,  
15 but -- or trying to catch up to us.

16 Q Transcript of what?

17 A Or the tape to listen to the radio transcripts or the  
18 radio broadcast.

19 Q On which channel or both?

20 A Yeah, or both, yeah.

21 Q So you could go to the transcript of three lima or  
22 three golf from --

23 A No. I was talking about this radio that's played on my  
24 COBAN.

25 Q Okay.

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1 A I could hear the transcripts -- or I could hear the  
2 radio broadcast.

3 Q Okay. And I think I asked earlier, but I want to make  
4 sure, have you ever seen a transcript of your COBAN?

5 A No.

6 Q You did not inventory the Camry until after the suspect  
7 was under arrest; is that right?

8 A Inventory, I just collected the evidence or somebody  
9 collected the evidence. I'm not sure it was inventoried or who  
10 did that.

11 Q The property was not collected until after the suspect  
12 was apprehended and handcuffed?

13 A Correct.

14 Q Who is Officer Rodriguez?

15 A He is a member of the SWAT team.

16 Q So that's another unit of SWAT that was present?

17 A Correct.

18 Q Who was his partner?

19 A He was fairly new then. I don't know who he would be  
20 riding with.

21 Q Do you know was he -- what he was riding in?

22 A A patrol car or -- yeah, is that what you were asking?

23 Q Who was in the white truck?

24 A I don't know.

25 Q And the testing of the methamphetamines, would that

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1 have been done by the detective?

2 A It says here that Detective Valediez tested it.

3 Q And would that have been done prior to your completing  
4 this report?

5 A Yes.

6 Q Let's watch the video because there are a few things on  
7 the video that I want some clarification on.

8 A Okay.

9 Q And I think you stated a little bit earlier that you --  
10 you actually saw the video.

11 A I saw up until when he bails out of the car.

12 Q Okay. So you didn't watch after, when other officers  
13 respond and go to the vehicle?

14 A No.

15 Q Okay. Some of this will be fairly new to you.

16 A Okay.

17 (Video Playing).

18 Q (BY MR. STEWARD:) So this is the first footage that we  
19 have.

20 A Okay.

21 Q And can you tell the jury what is depicted in this  
22 footage?

23 A That's the suspect vehicle in front of me, and that's  
24 the front of my patrol car.

25 Q And where is that?



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1 A The shopping center near 151 and 410.  
 2 Q There's a point where you start seeing letters on the  
 3 display, like L and M and one. What does that mean?  
 4 A I believe it's the lights are activated and then the  
 5 microphone is activated.  
 6 Q Where would the mike --  
 7 A I would have to seen the -- what you're talking about.  
 8 Q Okay. But L may be light?  
 9 A Uh-huh.  
 10 Q So your lights would not have been on at this point; is  
 11 that right?  
 12 A No, they're not on.  
 13 Q What does that mean?  
 14 A Mike on -- mike one on, so.  
 15 Q How is that turned on or off?  
 16 A I believe the L is when I activated my lights, it  
 17 automatically turned on the microphone.  
 18 Q So if the lights are on the mike is automatically  
 19 turned on?  
 20 A (Moving head up and down).  
 21 Q Is there a way to turn the mike off but the lights  
 22 still being on?  
 23 A Yes.  
 24 Q How?  
 25 A There's a mute button on your microphone that goes to

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1 the camera.  
 2 Q And where is that microphone?  
 3 A And there's also a video cutoff on the screen.  
 4 Q So going back to the mute button on the microphone,  
 5 where would that be physically?  
 6 A Wherever the officer has his microphone.  
 7 Q Where did you have your microphone?  
 8 A I don't know.  
 9 Q Okay.  
 10 A The COBANs were very fairly new back then for us, so  
 11 I've put it in several different spots to try to find out the  
 12 best for me.  
 13 Q What locations have you tried?  
 14 A Front of my belt, pocket, on my radio holder, on my  
 15 shirt.  
 16 Q Your lapel?  
 17 A No. Like in the front of my shirt.  
 18 Q Okay. So there it says L, which you have identified,  
 19 and M. What does that mean?  
 20 A I'm not sure.  
 21 Q How about one?  
 22 A I'm not sure. There's audio that should be playing,  
 23 but I don't hear it.  
 24 Q I'm not sure if we're -- all right. Well, we'll get  
 25 back to the audio. So at this point, which access road are you

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1 going onto?  
 2 A That's 151.  
 3 Q And there's no indication at this point, from at least  
 4 visually, that anything other than the lights and this -- and a  
 5 mike might be on, if that's what M1 stands for; is that right?  
 6 A Can you --  
 7 MR. RALLS: Okay.  
 8 THE WITNESS: Can you repeat the question, please?  
 9 Q (BY MR. STEWARD:) Sure. Just based upon the display,  
 10 I see L and I see M1, but I don't see anything else. So it's not  
 11 muted at this point; correct?  
 12 A Correct.  
 13 Q Because if it was, there would be something that  
 14 indicated that it was muted?  
 15 MR. KOSANOVICH: Objection; form, calls for  
 16 speculation.  
 17 MR. STEWARD: If you know.  
 18 THE WITNESS: I don't know.  
 19 Q (BY MR. STEWARD:) So where are you at this point when  
 20 you exit the roadway -- or exit the highway?  
 21 A That's -- that's 151, so I'm now on the access road of  
 22 151.  
 23 Q And the vehicle that's immediately in front of you,  
 24 that's the gold Camry?  
 25 A Correct.

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1 Q With the suspect -- suspect in it?  
 2 A Correct.  
 3 Q At that point, were you able to determine if the  
 4 suspect had any other people in the vehicle?  
 5 A No.  
 6 Q And you certainly weren't able at this point to figure  
 7 out or determine where he was going?  
 8 A Correct.  
 9 Q Were you able to dispatch other officers to an area  
 10 where they might intercept the gold Camry?  
 11 MR. KOSANOVICH: Object to the form of the  
 12 question. Go ahead.  
 13 THE WITNESS: I'm updating our location as we're  
 14 moving. Does that answer your question?  
 15 Q (BY MR. STEWARD:) It does. So now you're approaching  
 16 the Hyatt Hill Country; is that right?  
 17 A I believe so.  
 18 Q And beyond the Hyatt Hill Country you will get to the  
 19 Rudy's parking lot?  
 20 A Okay.  
 21 Q And still, as far as you know, you're the only  
 22 vehicle -- the only police vehicle that's pursuing --  
 23 A Correct.  
 24 Q -- the suspect?  
 25 A Correct.



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1 Q And is that the Rudy's that he ultimately pulls in?  
2 A Yes.  
3 Q Are you familiar with that Rudy's?  
4 A Yes.  
5 Q How many ways are out of that Rudy's are there or were  
6 there on May the 20th, 2014?  
7 A At least two.  
8 Q Is there access to the Rudy's on this access road?  
9 A Yes.  
10 Q So, at this point, you can see that he's pulled into  
11 the Rudy's?  
12 A Yes.  
13 Q But because of the camera angle you can't really see  
14 much of his vehicle, only the top; fair?  
15 A The camera can only see that. I can --  
16 Q Well, what can you see?  
17 A Wherever my point of view was at.  
18 Q Where is the -- the camera placed for the COBAN system  
19 on the vehicle?  
20 A To the right of the rearview mirror.  
21 Q So it's above you and slightly to the right?  
22 A Correct.  
23 Q So at this point -- back this up. As you're  
24 approaching, do you ever see him actually exit the vehicle?  
25 A Yes.

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1 Q Is the door open or closed in this?  
2 MR. RALLS: Objection; vague.  
3 THE WITNESS: I can't tell. It looks closed, but  
4 I can't tell.  
5 Q (BY MR. STEWARD:) Is it your understanding that when  
6 the suspect exited the vehicle, he left the door open?  
7 MR. KOSANOVICH: Objection; form, calls for  
8 speculation.  
9 THE WITNESS: Is it my understanding he left the  
10 door open?  
11 Q (BY MR. STEWARD:) What did you see?  
12 A I don't know.  
13 Q Okay. This door looks closed --  
14 A Okay.  
15 Q -- fair?  
16 A It looks closed.  
17 Q Do you know if he's exited the vehicle at this point?  
18 A Yes.  
19 Q Do you know where he ran?  
20 A Yes.  
21 Q Where?  
22 A Up and to the left -- behind the building to the left.  
23 Q So the building to the left is actually the Rudy's  
24 Bar-B-Q?  
25 A Correct.

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1 Q So you believe that at the time you're in this  
2 location, he is on the other side of the Camry, but he has not  
3 cleared the building yet, or do you know?  
4 A He -- I do not have sight of him now. I saw a brief  
5 glimpse of him coming into the driveway and he was already on  
6 foot, going behind the building.  
7 Q So you wanted to loop around the building to get to the  
8 parking lot?  
9 A Yeah. That's the parking lot -- we're already in the  
10 parking lot, but it goes all the way around the building.  
11 Q So did you believe that he was, as of 2:24, somewhere  
12 in this parking lot or in the woods beyond the parking lot --  
13 A I didn't --  
14 Q -- or did you know?  
15 A I did not believe he was, at this time, into the woods.  
16 I don't think he would have had time to make it that far.  
17 Q Where was he found?  
18 A He was eventually found in the woods.  
19 Q Where?  
20 A Point to it is fine?  
21 Q Please.  
22 A This way, along the access road.  
23 Q Okay.  
24 A If you back up you can see it a little bit there.  
25 MR. KOSANOVICH: Brian, he just pointed at the

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1 screen. If we could just mark that at 2:24:20 that is what he is  
2 pointing to.  
3 MR. STEWARD: Yeah.  
4 MR. KOSANOVICH: This was -- just as a point of  
5 reference.  
6 Q (BY MR. STEWARD:) Let me see if I can back up a little  
7 bit because you may be able to show us. Does this -- and this  
8 would be -- well, we'll figure that out. Does this footage or  
9 this still show you the location where he was apprehended?  
10 A Roughly, uh-huh.  
11 Q Let me see if I can get a time. Okay. So using the  
12 same time frame, but maybe a second or two earlier. So at this  
13 point, you did not know where he was?  
14 A Correct.  
15 Q You -- why do you decide to turn around rather than  
16 going down into that parking area or the woods to pursue him?  
17 A I didn't know where he was at. I was worried that he  
18 might double back to his car, so I go back to his car.  
19 Q So now the door is open. Do you see that?  
20 A Yeah.  
21 Q When he exited the vehicle, were you able to determine  
22 what he was wearing?  
23 A Yes.  
24 Q What did you see?  
25 A What I saw and what -- was a white T-shirt, blue jeans.

Page 53

1 Q So that was consistent with the description that had  
2 been given to you previously?

3 A I don't believe a clothing description was given  
4 before.

5 Q Okay. So white T-shirt, blue jeans. Anything else?

6 A No.

7 Q So this would indicate that the ignition was off?

8 A Yeah.

9 Q And when the ignition is off --

10 MR. KOSANOVICH: Objection; form, calls for  
11 speculation.

12 Q (BY MR. STEWARD:) What does the "IGN off" mean?

13 A I'm not sure.

14 Q Okay. All right.

15 MR. KOSANOVICH: Well, I apologize. I thought you  
16 were asking him about ignition in the Camry.

17 MR. STEWARD: No, no, no. No, no, no. On the  
18 screen.

19 MR. KOSANOVICH: Okay. I'll withdraw that  
20 objection.

21 Q (BY MR. STEWARD:) Do you know if when you walked over  
22 to the Camry it was -- the key was in the ignition or not?

23 A Yes.

24 Q Was it on?

25 A I don't know for sure.

Page 54

1 Q Okay. Is that you?

2 A Yes.

3 Q What were your intentions at this point?

4 A Make sure he didn't double back and then secure the  
5 vehicle, so he can't double back.

6 Q And tell me what you're doing at this point.

7 A Reaching in, taking the keys out, and then lock the  
8 door.

9 Q Was there -- were there any jackets or clothing in the  
10 vehicle?

11 A Not that I remember.

12 Q Was the shotgun visible at this point?

13 A Yes.

14 Q Where was the shotgun?

15 A Passenger side floorboard with the butt of the stock  
16 and the grip pointing towards the driver side seat.

17 Q Did you notice anything in the back seat?

18 A No.

19 Q So now you have the keys, and do you have your radio in  
20 your hand?

21 A Yes.

22 Q And who were you going to contact?

23 A Oh, I'm not exactly sure what I'm saying there, but the  
24 process would have been to set up a perimeter and try to locate  
25 the suspect.

Page 55

1 Q At this point, now that you've secured the car, it was  
2 your intention to go and look for the suspect; right?

3 A Yes.

4 Q Who else was looking for the suspect?

5 A Everybody who was working the same case I was.

6 Q With respect to the other SWAT officers, you had paid  
7 first so you had actually left the restaurant first?

8 A Yes.

9 Q So they were behind you, as far as you knew?

10 A Yes.

11 Q Have you ever looked at the COBAN video to see if you  
12 can see their vehicle when it pulls past or between the Bill  
13 Miller and the Rudy's?

14 A No.

15 Q Are you aware of the path that that unit traveled to --  
16 traveled before it encountered my client, Roger Carlos?

17 A No.

18 Q Let me move it up a little bit. When you're pursuing  
19 the suspect, you have the radio that you have to actually  
20 physically push a button to turn on; right?

21 A Yes.

22 Q Is -- are there any other devices -- communication  
23 devices that you would have which would have reported the audio  
24 from any encounter between the suspect and you?

25 A Can you repeat that, please?

Page 56

1 Q Sure. Did you have any other communication devices  
2 which would have recorded the encounter between the suspect and  
3 you?

4 A No. Besides the COBAN mike; is that what you're  
5 asking?

6 Q Right.

7 A Just my radio and my COBAN mike.

8 Q So the COBAN mike, wherever it was placed on your body,  
9 how far could you go away from the vehicle for it to record?

10 A I'm not sure of the exact distance.

11 Q Okay. Okay. That was -- we just started back at 2:27.  
12 The truck that just passed by was not law enforcement; fair?

13 A I would assume.

14 Q So based upon your police report, at this point you  
15 were helping to apprehend the suspect; correct?

16 A I don't want to say helping out with, but other  
17 officers had already, I guess, arrested him, detained him, or  
18 struggled with him already, all that stuff.

19 Q Was there a struggle with him?

20 A Yes.

21 Q What happened?

22 A I'm not sure.

23 Q Were you involved in the struggle?

24 A No.

25 Q Did you observe the struggle?

Page 57

1 A No.  
 2 Q Did they tell you about the struggle?  
 3 A That they were going to arrest him or that he resisted  
 4 and that would be a charge on him.  
 5 Q So in the report where there are references to pushing  
 6 and resistance, that's information that was provided to you, not  
 7 information that you -- that you actually saw?  
 8 A Correct.  
 9 Q So who do you consider the arresting officers to have  
 10 been?  
 11 A Well, it would have been me. I would have been  
 12 considered the person to initiate it, so that would have been me,  
 13 but the only one that I know is the one I referred to as  
 14 transporting the officer, would be Raul Romero.  
 15 Q Okay. We're going to move to 2:36. All right. It  
 16 stopped. Okay. All right. Here is 2:35:48. Were you familiar  
 17 with this area?  
 18 A It's not -- not very familiar.  
 19 Q Okay. Did you -- when the officers were creating a  
 20 quadrant, did you instruct the officers where to go?  
 21 A No.  
 22 Q So it is 1436 at this point, so the suspect is in  
 23 custody?  
 24 A Correct.  
 25 Q Correct?

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1 A Correct.  
 2 Q But you were not the person who actually placed him in  
 3 handcuffs?  
 4 A Correct.  
 5 Q Let me ask you what that meant. On the screen there,  
 6 the MIC-1. Does that mean mike one, or do you know?  
 7 A I would assume, yes.  
 8 Q And beside that it has UNMU, what does that mean?  
 9 A I would take that as being unmuted.  
 10 Q So is there a way or does the system automatically mute  
 11 at some point?  
 12 A No.  
 13 Q So someone would have had to mute the mike prior to  
 14 this point?  
 15 A It would have been me. That's my mike.  
 16 MR. KOSANOVICH: Objection to form, calls for  
 17 speculation.  
 18 MR. RALLS: Yeah, and assumes facts not in  
 19 evidence.  
 20 Q (BY MR. STEWARD:) Did you have more than one mike?  
 21 A No.  
 22 Q Why would you have muted your mike during your pursuit  
 23 of the suspect?  
 24 A I don't believe this is in the pursuit of the suspect.  
 25 I believe he's already --

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1 Q He's caught?  
 2 A He's already caught, uh-huh.  
 3 Q So why would you mute your mike after the suspect was  
 4 in custody?  
 5 MR. KOSANOVICH: Object to the form of the  
 6 question.  
 7 MR. RALLS: Objection; assume -- assumes facts not  
 8 in evidence.  
 9 THE WITNESS: It would be -- I could do it for a  
 10 number of reasons, receiving a personal phone call, talking to  
 11 the detective about the case, stuff like that, that's -- that  
 12 you're allowed to mute your mike.  
 13 Q (BY MR. STEWARD:) Do you recall specifically why?  
 14 A No, I don't know.  
 15 Q Thank you.  
 16 A It could have been done by accident, because it's just  
 17 a button, but I don't know why.  
 18 MR. RALLS: I'm sorry, I couldn't hear your  
 19 response.  
 20 THE WITNESS: I said, it could have been by  
 21 accident also because it's -- there's just a button to push.  
 22 Q (BY MR. STEWARD:) Now, is that you again?  
 23 A That's me again.  
 24 Q And why were you returning to the Camry?  
 25 A Let me see. I don't know.

Page 60

1 Q You had the keys at this point; right?  
 2 A Yes, uh-huh.  
 3 Q So you went to the trunk of the vehicle and opened it  
 4 up; correct?  
 5 A Yes.  
 6 Q Did you see anything?  
 7 A Nothing of value I would believe.  
 8 Q None of the property that's listed in the police report  
 9 came from that trunk, did it?  
 10 A Correct.  
 11 Q Had you called for K-9 at this point?  
 12 A No, I didn't.  
 13 Q Do you know if K-9 assisted based upon what they heard  
 14 on three lima?  
 15 A I don't know.  
 16 MR. KOSANOVICH: Objection; form, calls for  
 17 speculation.  
 18 Q (BY MR. STEWARD:) Does -- or would K-9 have access to  
 19 three golf?  
 20 A They have access to it, yes.  
 21 Q So this is the second time you've entered the vehicle;  
 22 correct?  
 23 A Yeah, I think so.  
 24 Q And you've seen the shotgun previously?  
 25 A Uh-huh.

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1 Q When do you discover the baggy of meth?

2 A I believe shortly after this right here.

3 Q And what's the procedure for the SWAT officers when

4 they discover drugs or a weapon?

5 MR. RALLS: Objection; compound.

6 THE WITNESS: Just like any policeman, just to

7 observe the evidence and collect it or have -- just have it

8 collected. It doesn't necessarily have to be by you, somebody

9 else.

10 Q (BY MR. STEWARD:) The officers that assisted you,

11 where did they park?

12 A I don't know.

13 Q Were the officers that assisted you plain clothes?

14 A There was both, uniform and patrol, or covert.

15 Q Okay. What does mike-1 mute mean?

16 A I would have muted my mike.

17 Q And after viewing this, can you tell us how you muted

18 it?

19 A No, I don't know. It would have been with my hand. I

20 just don't see it. If you play it, I can --

21 Q Okay.

22 A I don't know.

23 Q At this point, it doesn't appear that you're talking on

24 your radio; correct?

25 A I'm not on my radio, correct.

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1 Q And you're not on your cell phone?

2 A Correct.

3 Q Do you know who that is?

4 A No.

5 Q It's not a police officer?

6 A No. He's an employee of Rudy's. I don't know who he

7 is, though.

8 Q Did you ever go back to Rudy's and ask if Rudy's had

9 surveillance film of the parking lot?

10 A No.

11 Q Do you know if Rudy's had surveillance film of the

12 parking lot?

13 A No. I don't know.

14 Q Whose truck is that?

15 A I don't know.

16 Q This is at 2:42, and the gentleman in shorts and a blue

17 shirt and a badge gets out.

18 A Yes.

19 Q Who is that?

20 A That's William Garcia.

21 Q Who is Mr. Garcia?

22 A He's a detective.

23 Q And is he assigned to SWAT?

24 A No.

25 Q Who contacted Mr. Garcia or Officer Garcia?

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1 A He -- I don't know. Probably -- he was just working

2 the case probably also.

3 Q And did you know him before May the 20th, 2014?

4 A Yes. Yes.

5 Q And do you have any understanding as to his experience

6 level?

7 A No.

8 Q Or his assignment on that date?

9 A I don't know his exact assignment that day, no.

10 Q Generally, what do you think it was?

11 A He would be assigned to the same unit that was

12 following the suspect; it would have been HITDA.

13 Q And what does that unit generally do?

14 A I don't know their mission statement. I do not know.

15 Q Do you know if Garcia had pursued the suspect in

16 addition to you?

17 A Don't know.

18 Q Do you know if Officer Garcia removed anything from the

19 vehicle?

20 A No, I'm not sure. He may have been the one that

21 collected the evidence, or it could have been somebody else. I'm

22 not sure.

23 Q He was not, though, involved in the apprehension of the

24 suspect?

25 A No, uh-huh.

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1 Q And as far as you know, he was not involved in the

2 interaction with my client, Roger Carlos?

3 A As far as I know.

4 Q A second patrol car arrives. Do you see that?

5 A Yes.

6 Q Do you know who is in that vehicle?

7 A Not yet.

8 Q Who is that?

9 A Frank Rodriguez.

10 Q Now, was Officer Rodriguez in SWAT?

11 A Yes.

12 Q And was Officer Rodriguez responding to your calls for

13 assistance?

14 A Yes.

15 Q Do you know where Officer Rodriguez had been?

16 A I assume at Alamo Cafe with me.

17 Q So the possible people at lunch are Officer Rodriguez,

18 Chavez, Gonzalez, and you; is that right?

19 A Yes.

20 Q Anyone else?

21 A I -- I don't know exactly who was there.

22 Q Because it looks like Rodriguez is alone. So you just

23 were on your radio, put your radio away, and it looks like you

24 unmuted the mike; is that right?

25 A The mike is being unmuted, muted, and unmuted, but I



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1 don't see me doing anything. It could be in my pocket and doing  
2 it on its own. I don't know. I don't see my hand going towards  
3 the microphone, so it could be in my pocket and doing it itself.

4 Q Was one officer assigned to securing the property and  
5 the drugs that were in that vehicle?

6 A One officer?

7 Q Right.

8 A One officer will eventually collect the evidence and --

9 Q Did you know who that was going to be at this point?

10 A No. If I could hear the audio, maybe that's what we  
11 were discussing, but I don't know.

12 Q Why does that officer put gloves on --

13 MR. KOSANOVICH: Objection; form.

14 Q (BY MR. STEWARD:) -- if you know?

15 MR. RALLS: Same objection.

16 THE WITNESS: I don't know. So his hands don't  
17 get evidence on it or whatever.

18 Q (BY MR. STEWARD:) Do you recognize the officer with  
19 the K-9 unit?

20 A Not yet. Maybe keep playing.

21 Q Does that help you identify?

22 A That was Officer Trigo.

23 Q Do you know, one way or the other, if the suspect was  
24 still at the scene at 2:51?

25 A I don't know. I don't see him.

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1 Q Did you ever determine if that vehicle was stolen?

2 A No, it wasn't stolen.

3 Q Do you have any idea what he is doing at this point?

4 A He might be relocating it, getting it out of the way.  
5 I don't know.

6 Q And the footage endings in a few seconds. It's  
7 3:25:20. Are you aware of any footage beyond that footage?

8 A No.

9 Q Are there any policies or procedures which indicate how  
10 long or how much footage needs to be taken of a scene like this?

11 A I don't think there's a time limit.

12 Q When was the first time you saw that COBAN footage?

13 A This is the first time I've seen all that footage.

14 Q You hadn't seen the footage after he ditched the  
15 vehicle; right?

16 A Correct, yeah.

17 Q Have you seen any photographs of the suspect after he  
18 was taken into custody?

19 A No.

20 Q Do you know what his condition was when he was taken to  
21 the hospital?

22 A No.

23 Q Do you believe that an officer has to determine if a  
24 suspect is compliant or non-compliant before they determine the  
25 amount of force to be used to apprehend that suspect?

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1 Q Who is that?

2 A Detective Valdez.

3 Q Was Detective Valdez involved in the apprehension of  
4 the suspect?

5 A No.

6 Q Who contacted him?

7 A He was already working the case. I believe he was the  
8 detective in charge.

9 Q Do you recall speaking with him at the scene?

10 A I'm sure I did. I don't know what the conversation  
11 would be.

12 Q Up to this point -- and this is 3:07 -- have you seen  
13 Gonzalez or Chavez?

14 A No.

15 Q Do you know if they ever came to this area?

16 A I don't believe so.

17 Q Where was the vehicle taken, if you know?

18 A It would have been impounded.

19 Q Who is the person that's walking towards the vehicle  
20 right now?

21 A He's a policeman. I don't know his name, though.

22 Q Would an officer have been assigned to drive the  
23 vehicle to the impound yard?

24 A No. It would have been towed, or it could have been  
25 released at the scene if the registered owner wasn't the suspect.

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1 MR. KOSANOVICH: Objection to form of the  
2 question.

3 MR. RALLS: Yeah. Objection; vague, compound.

4 THE WITNESS: Can you please repeat it?

5 Q (BY MR. STEWARD:) Sure. Do you believe that an  
6 officer has to determine if a suspect is compliant or  
7 non-compliant before they determine the amount of force to be  
8 used to apprehend that suspect?

9 MR. RALLS: Objection; vague.

10 THE WITNESS: Yes.

11 Q (BY MR. STEWARD:) Do you also believe that during any  
12 stop and attempted apprehension the police officer must identify  
13 themselves?

14 MR. RALLS: Objection; vague, overly broad.

15 THE WITNESS: Yes, and sometimes it's obvious.

16 Q (BY MR. STEWARD:) It's obvious certainly if they're  
17 wearing a uniform?

18 A Yes.

19 Q It's not as obvious if they're not?

20 A Correct.

21 Q Based upon your training and experience, does the  
22 San Antonio police officer, in 2014, secure the suspect before he  
23 or she determines whether the suspect is compliant or not?

24 MR. RALLS: Objection; overly broad and vague.

25 THE WITNESS: I'm sorry, can you repeat that just



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1 one more time?

2 Q (BY MR. STEWARD:) Sure. Based upon your training and

3 experience, in May of 2014, does a San Antonio police officer

4 secure the suspect before he or she determines whether the

5 suspect is compliant or not?

6 MR. RALLS: Objection; overly broad and vague.

7 THE WITNESS: They were -- hopefully, have a

8 compliant suspect when they place them under arrest or detain

9 them. Is it okay if I use the restroom?

10 MR. RALLS: Sure.

11 MR. STEWARD: Sure.

12 THE VIDEOGRAPHER: Time is 11:56 a.m. We're off

13 the record.

14 (Recess taken)

15 THE VIDEOGRAPHER: Time is 12:02 p.m. We're back

16 on the record.

17 Q (BY MR. STEWARD:) Just a few more questions, Officer.

18 When you pulled into the parking lot at Rudy's, did you provide a

19 description of the suspect?

20 A Yes.

21 Q What was that description?

22 A White shirt, blue jeans.

23 Q Anything else?

24 A No.

25 Q Did you identify him as a Latin or Hispanic male?

Page 70

1 A No.

2 Q Was that information that was available to you?

3 A No. On that, I don't know. I'd have to listen to

4 the -- the actual audio part of that to know if I said Latin male

5 or not.

6 Q Well, backing up, did you have information through the

7 MDT as to the suspect's race and description?

8 A No. I don't believe DeLeon gave me his information.

9 Q And you weren't able to look that up on a computer --

10 A Correct.

11 Q -- during the pursuit?

12 A Correct.

13 Q Did you ever look it up after?

14 A Sure.

15 Q When you typed in the report?

16 A I'm sure, yeah.

17 Q Okay. Did you believe that the description of a white

18 suit (Sic) and blue jeans was sufficient for other police

19 officers to arrest the correct suspect?

20 MR. RALLS: Objection; form.

21 MR. KOSANOVICH: Objection; form.

22 MR. RALLS: Yeah.

23 THE WITNESS: You said --

24 MR. RALLS: White suit you said, Brian.

25 MR. STEWARD: Sorry. White T-shirt and blue

Page 71

1 jeans.

2 Q (BY MR. STEWARD:) Did you believe that the description

3 of a white T-shirt and blue jeans was sufficient for the other

4 officers to arrest the correct suspect?

5 MR. KOSANOVICH: Objection; form of the question.

6 THE WITNESS: I gave the best description I could.

7 Q (BY MR. STEWARD:) Did you provide the other officers

8 with the name of the suspect?

9 A No.

10 Q Were you provided with the name of the suspect?

11 A No.

12 Q You were provided with a description of the Camry;

13 correct?

14 A Yes.

15 Q And you knew that this suspect was driving a gold

16 Camry?

17 A Yes.

18 Q Did you have a license plate for that Camry?

19 A Are you talking about beforehand?

20 Q Right.

21 A No, I don't believe so.

22 Q Do you know where the suspect was hiding when the

23 officers found him?

24 A Yes. I know where he was at.

25 Q Do you know if any of the officers that found him drew

Page 72

1 their service revolvers?

2 A I don't know.

3 Q And just so I'm sure, you did not witness the struggle

4 between the suspect and those officers?

5 A No.

6 Q Where were you located?

7 A On the parking lot.

8 Q Right.

9 A Yes.

10 Q So you were actually -- you had asphalt under

11 your feet?

12 A Yes. I can elaborate a little bit further on.

13 Q Sure, please.

14 A Somebody in the parking lot, a civilian, had told me,

15 he just ran across to the woods. So I ended up running towards

16 where he was at, but other officers had already found him.

17 Q So after you get out of the vehicle you first go to the

18 Camry, secure the keys. Then you turn around and you leave the

19 viewpoint of the COBAN system?

20 A Uh-huh.

21 Q At what point does this civilian tell you that they

22 just saw the suspect?

23 A I believe, from the previous times I've seen it, it was

24 right after I go off the camera.

25 Q And once the civilian tells you that, what do you do?

Page 73

1 A I would have to listen to the actual audio, but start  
 2 going towards where he pointed to.  
 3 Q Did you see him hiding?  
 4 A At the time that person said it?  
 5 Q Right.  
 6 A No, no.  
 7 Q At some point afterwards, did you see him hiding?  
 8 A When -- I ended up making the scene of the arrest, yes.  
 9 Q So was he hiding in the woods?  
 10 A Yes.  
 11 Q How far into the woods?  
 12 MR. KOSANOVICH: Objection; calls for speculation.  
 13 THE WITNESS: Yeah. About 10, 15 yards from the  
 14 access road into the woods, maybe 20 yards.  
 15 Q (BY MR. STEWARD:) So the distance where he was located  
 16 was 10 to 15 yards from the access road?  
 17 A Correct.  
 18 Q How far was it from the parking lot?  
 19 A From the end of the parking lot?  
 20 Q Right.  
 21 A 30, 40 yards, maybe.  
 22 Q From that location, could you see the fire department?  
 23 A No.  
 24 Q Have you ever evaluated another officer for their use  
 25 of force?

Page 74

1 A No.  
 2 Q Have you ever been investigated by internal affairs?  
 3 A Yes.  
 4 Q When?  
 5 A Earlier in my career. I don't know exactly when.  
 6 Q Generally, for what?  
 7 A I've had a few use of force complaints.  
 8 Q And the last use of force complaint against you would  
 9 have been approximately when?  
 10 A More than 10 years ago. I haven't been complained on  
 11 since I got on patrol -- prior to SWAT.  
 12 Q So prior to SWAT?  
 13 A Prior to SWAT, yeah.  
 14 Q Okay. Let me state it a different way. Since you've  
 15 been with SWAT, there have not been any use of force complaints  
 16 made against you?  
 17 A Correct.  
 18 Q And as such, internal affairs has not investigated you  
 19 for any use of force complaints since 2006?  
 20 A Correct.  
 21 Q Prior to 2006, there were two use of force complaints  
 22 made against you?  
 23 A I believe three.  
 24 Q Three use of force complaints made against you, and do  
 25 you remember the facts or circumstances of those complaints?

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1 A None in great detail, but they were found --  
 2 Q What do you remember?  
 3 A -- they were found -- well, I don't know how you -- not  
 4 guilty or inconclusive, whatever you want to call it.  
 5 Q Were they dismissed?  
 6 A I don't know if that's considered like a judgment, but  
 7 it's either, I think, inconclusive or something else or in --  
 8 MR. RALLS: Unfounded.  
 9 THE WITNESS: Unfounded. There you go.  
 10 Unfounded.  
 11 Q (BY MR. STEWARD:) So they never made it the chief's  
 12 Advisory Action Board?  
 13 A No, I was --  
 14 MR. KOSANOVICH: Objection; form.  
 15 THE WITNESS: -- I was found not to have committed  
 16 the violation.  
 17 Q (BY MR. STEWARD:) Was a statement taken from you?  
 18 A I'm sure, yes.  
 19 Q And were you asked about the facts and circumstances of  
 20 your involvement with the complainant?  
 21 A Of those cases?  
 22 Q Right.  
 23 A Yes.  
 24 Q Were you involved or contacted by internal affairs with  
 25 respect to the investigation of Chavez, Gonzalez, and Detective

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1 John Doe?  
 2 A No.  
 3 Q Were you aware of an internal affairs investigation  
 4 into those officers?  
 5 A I knew they went to internal affairs, yes.  
 6 Q In your internal affairs investigation, after your  
 7 statement, were you asked specifically if you believe that the  
 8 charges were well founded?  
 9 MR. KOSANOVICH: Objection to form of the  
 10 question.  
 11 THE WITNESS: I don't know. Which case are you  
 12 referring to?  
 13 Q (BY MR. STEWARD:) Any of the three.  
 14 A Of my cases?  
 15 Q Right. Okay.  
 16 A Okay. Repeat your question again.  
 17 Q Sure. With respect to the complaints that were made --  
 18 A Against me.  
 19 Q -- against you --  
 20 A Uh-huh.  
 21 Q -- did you believe that the complaints were valid?  
 22 A No.  
 23 Q And certainly you wouldn't have agreed to any  
 24 suspensions, based upon what the complainant says, with respect  
 25 to the complaints that were made against you?

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1 A I can't say that.

2 Q Well, if you didn't -- if you didn't believe that you

3 had done anything wrong, you certainly would have -- wouldn't

4 have agreed with the recommendation from the Chief that you be

5 suspended for five, 10, or 15 days?

6 MR. RALLS: Objection; calls for speculation.

7 THE WITNESS: No. Some of those decisions are

8 made financially. You can't afford to be suspended from what

9 you're being told so you're given an offer, and financially you

10 have to make decisions based on your family, and sometimes you

11 have to swallow a pill and take what is given to you.

12 Q (BY MR. STEWARD:) So it may not be a matter of whether

13 you think it's valid or not, from a financial standpoint, you, as

14 the officer, may feel that you don't have an alternative?

15 A Correct.

16 Q And you don't know, one way or the other, if that is

17 why Officer Chavez or Gonzalez or Detective John Doe agreed to

18 suspensions from the Chief, do you?

19 A I don't know why they -- what -- if they did what they

20 did. I don't know.

21 Q Did you ever have a conversation with the suspect after

22 he was taken into custody?

23 A The suspect that I was chasing?

24 Q Right.

25 A I don't believe so.

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1 Q At the point where the suspect you were chasing was

2 taken into custody, there were no other suspects, were there?

3 A He was by himself.

4 Q But once he was taken into custody, the individual that

5 you were pursuing was no longer a risk to anyone else?

6 A I'm sorry. Can you repeat that again, please?

7 Q At the time he was taken into custody, your police

8 report says 1430, or 2:30, there were no other suspects that were

9 being pursued with respect to what you had been told on your cell

10 phone --

11 A Correct. That's correct.

12 MR. RALLS: Be sure and let him -- I know you're

13 asking him to repeat some questions, but when he does, make sure

14 you wait until he finishes his question.

15 THE WITNESS: I'm sorry.

16 Q (BY MR. STEWARD:) Do you know what the suspect's

17 condition was such that he had to be taken to the hospital?

18 A No, I don't know what his condition was.

19 Q Are you aware of any photographs of the suspect which

20 were taken at the scene?

21 A No.

22 Q Was EMS called for the suspect?

23 A I don't know.

24 Q Was EMS called for any of the officers who assisted in

25 the apprehension of the suspect?

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1 A Not that I know of.

2 Q Did you receive any injuries?

3 A No. It says that EMS made the location and treated the

4 AP, so EMS was called for the suspect we were chasing.

5 Q Did you actually see EMS treating the suspect?

6 A Not that I remember.

7 Q Do you know what the results of the X-rays at the Brady

8 Green for the suspect were?

9 A No.

10 MR. STEWARD: I'll pass the Witness.

11 MR. KOSANOVICH: We'll reserve all our questions

12 until the time of trial.

13 MR. RALLS: I'll reserve mine until trial.

14 THE VIDEOGRAPHER: Time is 12:14 p.m. We are off

15 the record.

16 (Proceedings concluded).

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1 CHANGES AND SIGNATURE

2 WITNESS NAME: JAMES YBARRA

3 DATE OF DEPOSITION: JANUARY 31, 2017

4 PAGE LINE CORRECTION AND REASON

5

6

7

8

9

10

11

12 IF YOU DO NOT WISH TO MAKE ANY CHANGES, PLEASE NOTE "NONE" ABOVE.

13 I, JAMES YBARRA, have read the foregoing deposition and

14 hereby affix my signature that same is true and correct, except

15 as noted above.

16 JAMES YBARRA

17 THE STATE OF TEXAS )

18 COUNTY OF \_\_\_\_\_ )

19 Before me, \_\_\_\_\_, on this day

20 personally appeared JAMES YBARRA, known to me (or proved to me

21 under oath or through \_\_\_\_\_) (description of identity

22 card or other document) to be the person whose name is subscribed

23 to the foregoing instrument and acknowledged to me that they

24 executed the same for the purposes and consideration therein

25 expressed.

Given under my hand and seal of office this \_\_\_\_\_ day

of \_\_\_\_\_, 20\_\_\_\_.

Notary Public in and for

the State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE WESTERN DISTRICT OF TEXAS  
3 SAN ANTONIO DIVISION  
4 ROGELIO CARLOS, III AND \*  
MYRNA CARLOS \*

5 VS. \* CIVIL ACTION  
\* NO. 5:16-CV-00251-FB  
\*

6 CARLOS CHAVEZ, VIRGILIO \*  
7 GONZALEZ, JAMES YBARRA, MARK \*  
8 DELGADO, CITY OF SAN ANTONIO, \*  
SAN ANTONIO POLICE DEPARTMENT \*  
AND DETECTIVE JOHN DOE \*

9  
10 REPORTER'S CERTIFICATE  
11 DEPOSITION OF JAMES YBARRA  
12 JANUARY 31, 2017  
13

14 I, DARLENE ZUEHL, a Certified Shorthand Reporter in and  
15 for the State of Texas, do hereby certify that the foregoing  
16 deposition is a full, true and correct transcript;

17 That the Witness, JAMES YBARRA, was duly sworn by the  
18 officer and that the transcript of the oral deposition is a true  
19 record of the testimony given by the Witness;

20 That the deposition transcript was submitted on  
21 \_\_\_\_\_, 2017, to the witness or to the attorney for  
22 the witness for examination, signature and returned to me by  
23 \_\_\_\_\_, 2017;

24 That the amount of time used by each party at the  
25 deposition is as follows:

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1 Brian C. Steward - (1 hour, 50 minutes)

2 That pursuant to information given to the deposition  
3 officer at the time said testimony was taken, the following  
4 includes counsel for all parties of record:

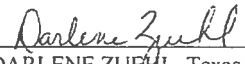
5 Brian C. Steward, Phillip G. Bernal, Kris Hufstetler,  
6 Attorneys for Plaintiffs;

7 N. Mark Ralls, Attorney for Defendants;

8 Mark Kosanovich, Attorney for Defendants.

9 I further certify that I am neither counsel for,  
10 related to, nor employed by any of the parties or attorneys in  
11 the action in which this proceeding was taken, and further that I  
12 am not financially or otherwise interested in the outcome of the  
13 action.

14 Certified to by me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

15  
16   
DARLENE ZUEHL, Texas CSR #7505  
17 Expiration Date: December 31, 2018  
REPUBLIC SERVICES, INC.  
18 12108 Radium Street  
San Antonio, Texas 78216  
19 (210) 298-6300 Firm Reg. #649  
20  
21  
22  
23  
24  
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1 FURTHER CERTIFICATION

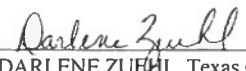

2 The original deposition transcript with corrections ( )  
3 was ( ) was not returned pursuant to the Rules, and the ( )  
4 original transcript ( ) copy of nonsignature certificate to be  
5 attached to the attorney's copy of the deposition was mailed by  
6 UPS to the custodial attorney, Brian C. Steward, for safekeeping  
7 and use at trial.

8 If returned, the attached Changes and Signature page  
9 contains any changes and the reasons therefor;

10 That \$\_\_\_\_\_ is the deposition officer's charges to  
11 Brian C. Steward for preparing the original deposition transcript  
12 and any copies of exhibits;

13 That the deposition was delivered in accordance with  
14 the Federal Rules of Civil Procedure, and that a copy of this  
15 certificate was served on all parties shown herein on and filed  
16 with the Clerk.

17 Certified by me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

18  
19    
20 DARLENE ZUEHL, Texas CSR #7505  
21 Expiration Date: December 31, 2018  
REPUBLIC SERVICES, INC.  
12108 Radium Street  
22 San Antonio, Texas 78216  
(210) 298-6300 Firm Reg. #649

23 ORIGINAL NOT VALID  
24 UNLESS SIGNED BY REPORTER  
25